

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA 01/02 - 4003
)	
Jordan/Central Implement Company)	
950 South Dogwood Road)	CONSENT ORDER
El Centro, California 92243)	
EPA ID No. CAL000048807)	Health and Safety Code
)	Section 25187
Respondent.)	
_____)	

The California Department of Toxic Substances Control (Department) and Jordan/Central Implement Company (Respondent) enter into this Consent Order and agree as follows:

1. Respondent generates and stores hazardous waste at 950 South Dogwood Road, El Centro, California 92243 (Site).
2. The Department inspected the Site on September 18, 2001.
3. The Department alleges the following violations:
 - 3.1. Respondent violated Health and Safety Code, section 25201(a) in conjunction with California Code of Regulations, title 22, section 66262.34(d), in that on or about September 18, 2001, Respondent stored on-site generated hazardous waste for more than 180 days without a permit or any grant of authorization from the Department, to wit: Respondent stored on-site sump generated hazardous waste in a roll-off bin without a permit or other grant of authorization from the Department.

3.2. Respondent violated California Code of Regulations, title 22, section 66265.31, in that on or about September 18, 2001, Respondent failed to minimize the release of hazardous waste to the soil which could threaten human health or the environment, to wit, Respondent allowed contaminated liquids containing sulfides to penetrate the soil underneath a cracked concrete slab adjacent to a sump.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8.1. This Consent Order shall constitute full settlement of the violations alleged above, as well as similar violations alleged during the February 19, 2003, inspection of Respondent's facility in Brawley, California, but does not limit the Department from taking appropriate enforcement action concerning other violations.¹

8.2. By entering into this Consent Order, Respondent does not admit any of the violations alleged.

SCHEDULE FOR COMPLIANCE

9. Respondent shall comply with the following:

9.1. Respondent has corrected the alleged violations cited above.

Respondent shall operate hereafter in a manner that shall comply with all the federal and

¹ See the Department's letter of equal date with this Consent Order concerning the Brawley site.

state rules and regulations pertaining to small quantity generators of hazardous wastes.

9.1.1. Respondent shall conduct sampling of the sludge waste generated from the sump in accordance with the revised sampling workplan dated June 3, 2003. If the sampling does not begin the third quarter of 2003, the sampling shall begin the following quarter and end at a time where sampling has been conducted once a quarter for the period of a year. In addition to the analysis listed in the workplan, respondent shall analyze quarterly samples for volatile organic compounds in accordance with EPA Method 8260B. Respondent shall also rotate analysis for chlorinated herbicides (8151A), total sulfides (376.2), and organophosphorus pesticides (8141A), so that at least one sample in the one year period has been tested for those compounds. Respondent may remove the analysis for flash point if desired. The purpose of the sampling will be for Respondent to more accurately determine the characteristics of the sludge waste.

9.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Nennet V. Alvarez, Branch Chief
Statewide Compliance Division
Cypress Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

and to

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Pamela LePen
Senior Hazardous Substances Scientist
Statewide Compliance Division
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

9.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

9.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

9.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

9.6. Endangerment during Implementation: In the event that the Department

determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

9.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction over the generation, storage, treatment or disposal of hazardous waste. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying

out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

9.9. Sampling, Data, and Document Availability:

9.9.1. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order.

9.9.2. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order.

9.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either: (a) comply with that request, (b) deliver the documents to the Department, or (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Enforcement Order and permit the Department to copy the documents prior to destruction.

9.10. Government Liabilities: The State of California shall not be liable for

injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

9.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

9.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

10.1. Respondent shall pay the Department a total of \$10,000, which includes \$5,000 as reimbursement of the Department's costs and a \$5,000 administrative penalty.

10.2. The penalty shall be reduced by \$5,000 if, and only if, Respondent sends at least one employee to the California Compliance School, Modules I - V, and

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submits to the Department, within 180 days of the effective date of this Consent Order, Certificates of Satisfactory Completion thereof.

10.3. \$5,000 is due and payable within thirty days of the effective date of this Consent Order.

10.4. In the event that the above Certificates of Satisfactory Completion are not all received by the Department within 180 days of the effective date of this Consent Order, the entire remaining balance of \$5,000 shall then become due and payable.

10.5. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this Consent Order. Respondent shall deliver the penalty payment together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Nennet V. Alvarez, Branch Chief
Statewide Compliance Division
Cypress Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

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Pamela LePen
Senior Hazardous Substances Scientist
Statewide Compliance Division
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

James J. Grace
Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd Floor
P.O. Box 806
Sacramento, California 95812-0806

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1 and to pay all reasonable costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

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11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

11.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

11.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

11.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

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11.7. Definition of Terms: The terms used in this Consent Order are as defined in the California Code of Regulations, title 22, section 66260.10, except as otherwise provided.

Dated: 11/11/03

Original Signed by Steve Ellison
Steve Ellison, President
Jordan/Central Implement Company

Dated: 12/08/03

Original Signed by Nennet V. Alvarez
Nennet V. Alvarez, Branch Chief
Statewide Compliance Division
Cypress Office
Department of Toxic Substances Control

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